

By: Price

H.B. No. 12

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to individuals who are or may be persons with a mental  
3 illness or an intellectual disability and who are or have been  
4 involved with the court system and to the eligibility for medical  
5 assistance of certain mentally ill inmates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article 15.17, Code of Criminal Procedure, is  
8 amended by adding Subsection (a-1) to read as follows:

9 (a-1) If a magistrate is provided written or electronic  
10 notice of credible information that may establish reasonable cause  
11 to believe that a person brought before the magistrate has a mental  
12 illness or is a person with an intellectual disability, the  
13 magistrate shall conduct the proceedings described by Article 16.22  
14 or 17.032, as appropriate.

15 SECTION 2. Article 16.22, Code of Criminal Procedure, is  
16 amended to read as follows:

17 Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF  
18 HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL~~  
19 ~~RETARDATION~~]. (a)(1) Not later than four [~~72~~] hours after the  
20 sheriff or other person having custody of a defendant for an offense  
21 punishable as a Class B misdemeanor or any higher category of  
22 offense determines that [~~receiving credible information that may~~  
23 ~~establish~~] reasonable cause may exist to believe that the [~~a~~]  
24 defendant [~~committed to the sheriff's custody~~] has a mental illness

1 or is a person with an intellectual disability [~~mental retardation,~~  
2 ~~including observation of the defendant's behavior immediately~~  
3 ~~before, during, and after the defendant's arrest and the results of~~  
4 ~~any previous assessment of the defendant~~], the sheriff or other  
5 person shall provide written or electronic notice [~~of the~~  
6 ~~information~~] to the magistrate. The notice must include any  
7 information related to the sheriff's or other person's  
8 determination, such as information regarding the defendant's  
9 behavior immediately before, during, and after the defendant's  
10 arrest and, if applicable, the results of any previous assessment  
11 of the defendant. On a determination that there is reasonable cause  
12 to believe that the defendant has a mental illness or is a person  
13 with an intellectual disability [~~mental retardation~~], the  
14 magistrate, except as provided by Subdivision (2), shall order the  
15 local mental health [~~or mental retardation~~] authority, local  
16 intellectual and developmental disability authority, or another  
17 qualified mental health or intellectual disability [~~mental~~  
18 ~~retardation~~] expert to:

19 (A) collect information regarding whether the  
20 defendant has a mental illness as defined by Section 571.003,  
21 Health and Safety Code, or is a person with an intellectual  
22 disability [~~mental retardation~~] as defined by Section 591.003,  
23 Health and Safety Code, including, if applicable, information  
24 obtained from any previous assessment of the defendant and  
25 information regarding any previously recommended treatment; and

26 (B) provide to the magistrate a written  
27 assessment of the information collected under Paragraph (A) on the

1 form approved by the Texas Correctional Office on Offenders with  
2 Medical or Mental Impairments under Section 614.0032(b)(3), Health  
3 and Safety Code.

4           (2) The magistrate is not required to order the  
5 collection of information under Subdivision (1) if the defendant in  
6 the year preceding the defendant's applicable date of arrest has  
7 been determined to have a mental illness or to be a person with an  
8 intellectual disability [~~mental retardation~~] by the local mental  
9 health [~~or mental retardation~~] authority, local intellectual and  
10 developmental disability authority, or another mental health or  
11 intellectual disability [~~mental retardation~~] expert described by  
12 Subdivision (1). A court that elects to use the results of that  
13 previous determination may proceed under Subsection (c).

14           (3) If the defendant fails or refuses to submit to the  
15 collection of information regarding the defendant as required under  
16 Subdivision (1), the magistrate may order the defendant to submit  
17 to an examination in a jail or in another place [~~mental health~~  
18 ~~facility~~] determined to be appropriate by the local mental health  
19 [~~or mental retardation~~] authority or local intellectual and  
20 developmental disability authority for a reasonable period not to  
21 exceed 48 hours [~~21 days~~]. If applicable, the [~~The magistrate may~~  
22 ~~order a defendant to a facility operated by the Department of State~~  
23 ~~Health Services or the Department of Aging and Disability Services~~  
24 ~~for examination only on request of the local mental health or mental~~  
25 ~~retardation authority and with the consent of the head of the~~  
26 ~~facility. If a defendant who has been ordered to a facility~~  
27 ~~operated by the Department of State Health Services or the~~

1 ~~Department of Aging and Disability Services for examination remains~~  
2 ~~in the facility for a period exceeding 21 days, the head of that~~  
3 ~~facility shall cause the defendant to be immediately transported to~~  
4 ~~the committing court and placed in the custody of the sheriff of the~~  
5 ~~county in which the committing court is located. That] county in~~  
6 which the committing court is located shall reimburse the local  
7 mental health authority or local intellectual and developmental  
8 disability authority [~~facility~~] for the mileage and per diem  
9 expenses of the personnel required to transport the defendant,  
10 calculated in accordance with the state travel regulations in  
11 effect at the time.

12 (b) Except as otherwise permitted by the magistrate for good  
13 cause shown, a [A] written assessment of the information collected  
14 under Subsection (a)(1)(A) shall be provided to the magistrate:

15 (1) for a defendant held in custody, not later than 72  
16 hours after the time an order was issued under Subsection (a); or

17 (2) for a defendant released from custody, not later  
18 than the 30th day after the date an [of any] order was issued under  
19 Subsection (a).

20 (b-1) The [in a felony case and not later than the 10th day  
21 after the date of any order issued under that subsection in a  
22 misdemeanor case, and the] magistrate shall provide copies of the  
23 written assessment to the defense counsel, the [prosecuting]  
24 attorney representing the state, and the trial court. The written  
25 assessment must include a description of the procedures used in the  
26 collection of information under Subsection (a)(1)(A) and the  
27 applicable expert's observations and findings pertaining to:

1           (1) whether the defendant is a person who has a mental  
2 illness or is a person with an intellectual disability [~~mental~~  
3 ~~retardation~~];

4           (2) whether there is clinical evidence to support a  
5 belief that the defendant may be incompetent to stand trial and  
6 should undergo a complete competency examination under Subchapter  
7 B, Chapter 46B; and

8           (3) any appropriate or recommended treatment or  
9 service.

10           (c) After the trial court receives the applicable expert's  
11 written assessment relating to the defendant under Subsection (b-1)  
12 [~~(b)~~] or elects to use the results of a previous determination as  
13 described by Subsection (a)(2), the trial court may, as applicable:

14           (1) resume criminal proceedings against the  
15 defendant, including any appropriate proceedings related to the  
16 defendant's release on personal bond under Article 17.032 if the  
17 defendant is being held in custody;

18           (2) resume or initiate competency proceedings, if  
19 required, as provided by Chapter 46B or other proceedings affecting  
20 the defendant's receipt of appropriate court-ordered mental health  
21 or intellectual disability [~~mental—retardation~~] services,  
22 including proceedings related to the defendant's receipt of  
23 outpatient mental health services under Section 574.034, Health and  
24 Safety Code; [~~or~~]

25           (3) consider the written assessment during the  
26 punishment phase after a conviction of the offense for which the  
27 defendant was arrested, as part of a presentence investigation

1 report, or in connection with the impositions of conditions  
2 following placement on community supervision, including deferred  
3 adjudication community supervision; or

4 (4) refer the defendant to an appropriate specialty  
5 court established or operated under Subtitle K, Title 2, Government  
6 Code.

7 (d) This article does not prevent the applicable court from,  
8 before, during, or after the collection of information regarding  
9 the defendant as described by this article:

10 (1) releasing a defendant who has a mental illness  
11 ~~[mentally ill]~~ or is a person with an intellectual disability  
12 ~~[mentally retarded defendant]~~ from custody on personal or surety  
13 bond, including imposing as a condition of release that the  
14 defendant submit to an examination or other assessment; or

15 (2) ordering an examination regarding the defendant's  
16 competency to stand trial.

17 (e) The magistrate shall submit to the Office of Court  
18 Administration of the Texas Judicial System on a monthly basis the  
19 number of written assessments provided to the court under  
20 Subsection (a)(1)(B).

21 SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of  
22 Criminal Procedure, are amended to read as follows:

23 (a) In this article, "violent offense" means an offense  
24 under the following sections of the Penal Code:

- 25 (1) Section 19.02 (murder);  
26 (2) Section 19.03 (capital murder);  
27 (3) Section 20.03 (kidnapping);

- 1           (4) Section 20.04 (aggravated kidnapping);
- 2           (5) Section 21.11 (indecent with a child);
- 3           (6) Section 22.01(a)(1) (assault), if the offense
- 4 involved family violence as defined by Section 71.004, Family Code;
- 5           (7) Section 22.011 (sexual assault);
- 6           (8) Section 22.02 (aggravated assault);
- 7           (9) Section 22.021 (aggravated sexual assault);
- 8           (10) Section 22.04 (injury to a child, elderly
- 9 individual, or disabled individual);
- 10           (11) Section 29.03 (aggravated robbery);
- 11           (12) Section 21.02 (continuous sexual abuse of young
- 12 child or children); or
- 13           (13) Section 20A.03 (continuous trafficking of
- 14 persons).
- 15           (b) Notwithstanding Article 17.03(b), or a bond schedule
- 16 adopted or a standing order entered by a judge, a [A] magistrate
- 17 shall release a defendant on personal bond unless good cause is
- 18 shown otherwise if ~~the~~:
- 19           (1) the defendant is not charged with and has not been
- 20 previously convicted of a violent offense;
- 21           (2) the defendant is examined by the local mental
- 22 health ~~[or mental retardation]~~ authority, local intellectual and
- 23 developmental disability authority, or another qualified mental
- 24 health or intellectual disability expert under Article 16.22 ~~[of~~
- 25 ~~this code]~~;
- 26           (3) the applicable expert, in a written assessment
- 27 submitted to the magistrate under Article 16.22, [+

1           ~~[(A)]~~ concludes that the defendant has a mental  
2 illness or is a person with an intellectual disability [~~mental~~  
3 ~~retardation~~] and requires treatment not available in jail [~~is~~  
4 ~~nonetheless competent to stand trial~~]; [and

5           ~~[(B) recommends mental health treatment for the~~  
6 ~~defendant, and]~~

7           (4) the magistrate determines, in consultation with  
8 the local mental health [~~or mental retardation~~] authority or local  
9 intellectual and developmental disability authority, that  
10 appropriate community-based mental health or intellectual  
11 disability [~~mental retardation~~] services for the defendant are  
12 available in accordance with [~~through the Texas Department of~~  
13 ~~Mental Health and Mental Retardation under~~] Section 534.053 or  
14 534.103, Health and Safety Code, or through another mental health  
15 or intellectual disability [~~mental retardation~~] services provider;  
16 and

17           (5) the magistrate finds, after considering all the  
18 circumstances, a pretrial risk assessment, if applicable, and any  
19 other credible information provided by the attorney representing  
20 the state or the defendant, that release on personal bond would  
21 reasonably ensure the defendant's appearance in court as required  
22 and the safety of the community and the victim of the alleged  
23 offense.

24           (c) The magistrate, unless good cause is shown for not  
25 requiring treatment, shall require as a condition of release on  
26 personal bond under this article that the defendant submit to  
27 outpatient or inpatient mental health or intellectual disability

1 ~~[mental retardation]~~ treatment as recommended by the local mental  
2 health ~~[or mental retardation]~~ authority, local intellectual and  
3 developmental disability authority, or another qualified mental  
4 health or intellectual disability expert if the defendant's:

5 (1) mental illness or intellectual disability ~~[mental~~  
6 ~~retardation]~~ is chronic in nature; or

7 (2) ability to function independently will continue to  
8 deteriorate if the defendant is not treated.

9 (d) In addition to a condition of release imposed under  
10 Subsection (c) ~~[of this article]~~, the magistrate may require the  
11 defendant to comply with other conditions that are reasonably  
12 necessary to ensure the defendant's appearance in court as required  
13 and the safety of ~~[protect]~~ the community and the victim of the  
14 alleged offense.

15 SECTION 4. Article [32A.01](#), Code of Criminal Procedure, is  
16 amended by amending Subsection (a) and adding Subsection (c) to  
17 read as follows:

18 (a) Insofar as is practicable, the trial of a criminal  
19 action shall be given preference over trials of civil cases, and the  
20 trial of a criminal action against a defendant who is detained in  
21 jail pending trial of the action shall be given preference over  
22 trials of other criminal actions not described by Subsection (b) or  
23 (c).

24 (c) Except as provided by Subsection (b), the trial of a  
25 criminal action against a defendant who has been determined to be  
26 restored to competency under Article [46B.084](#) shall be given  
27 preference over other matters before the court, whether civil or

1 criminal.

2 SECTION 5. The heading to Article 46B.0095, Code of  
3 Criminal Procedure, is amended to read as follows:

4 Art. 46B.0095. MAXIMUM PERIOD OF COMMITMENT OR [~~OUTPATIENT~~  
5 ~~TREATMENT~~] PROGRAM PARTICIPATION DETERMINED BY MAXIMUM TERM FOR  
6 OFFENSE.

7 SECTION 6. Articles 46B.0095(a), (b), (c), and (d), Code of  
8 Criminal Procedure, are amended to read as follows:

9 (a) A defendant may not, under Subchapter D or E or any other  
10 provision of this chapter, be committed to a mental hospital or  
11 other inpatient or residential facility or to a jail-based  
12 restoration of competency program, ordered to participate in an  
13 outpatient [~~treatment~~] program, or subjected to any combination of  
14 [~~both~~] inpatient or [~~and~~] outpatient treatment or program  
15 participation for a cumulative period that exceeds the maximum term  
16 provided by law for the offense for which the defendant was to be  
17 tried, except that if the defendant is charged with a misdemeanor  
18 and has been ordered only to participate in an outpatient  
19 [~~treatment~~] program under Subchapter D or E, the maximum period of  
20 restoration is two years.

21 (b) On expiration of the maximum restoration period under  
22 Subsection (a), the mental hospital, [~~or other inpatient or~~  
23 ~~residential~~] facility, or [~~outpatient treatment~~] program provider  
24 identified in the most recent order of commitment or order of  
25 outpatient [~~treatment~~] program participation under this chapter  
26 shall assess the defendant to determine if civil proceedings under  
27 Subtitle C or D, Title 7, Health and Safety Code, are appropriate.

1 The defendant may be confined for an additional period in a mental  
2 hospital or other [~~inpatient or residential~~] facility or jail-based  
3 program or ordered to participate for an additional period in an  
4 outpatient [~~treatment~~] program, as appropriate, only pursuant to  
5 civil proceedings conducted under Subtitle C or D, Title 7, Health  
6 and Safety Code, by a court with probate jurisdiction.

7 (c) The cumulative period described by Subsection (a):

8 (1) begins on the date the initial order of commitment  
9 or initial order for outpatient [~~treatment~~] program participation  
10 is entered under this chapter; and

11 (2) in addition to any inpatient or outpatient  
12 treatment periods or program participation periods described by  
13 Subsection (a), includes any time that, following the entry of an  
14 order described by Subdivision (1), the defendant is confined in a  
15 correctional facility, as defined by Section 1.07, Penal Code, or  
16 is otherwise in the custody of the sheriff during or while awaiting,  
17 as applicable:

18 (A) the defendant's transfer to:

19 (i) a mental hospital or other inpatient or  
20 residential facility; or

21 (ii) a jail-based restoration of competency  
22 program;

23 (B) the defendant's release on bail to  
24 participate in an outpatient treatment program; or

25 (C) a criminal trial following any temporary  
26 restoration of the defendant's competency to stand trial.

27 (d) The court shall credit to the cumulative period

1 described by Subsection (a) any time that a defendant, following  
2 arrest for the offense for which the defendant was to be tried, is  
3 confined in a correctional facility, as defined by Section 1.07,  
4 Penal Code, before the initial order of commitment or initial order  
5 for outpatient [~~treatment~~] program participation is entered under  
6 this chapter.

7 SECTION 7. Article 46B.010, Code of Criminal Procedure, is  
8 amended to read as follows:

9 Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES.  
10 If a court orders that a defendant charged with a misdemeanor  
11 punishable by confinement be committed to a mental hospital or  
12 other inpatient or residential facility or to a jail-based  
13 restoration of competency program, participate in an outpatient  
14 [~~treatment~~] program, or be subjected to any combination of [both]  
15 inpatient or [and] outpatient treatment or program participation,  
16 and the defendant is not tried before the expiration of the maximum  
17 period of restoration described by Article 46B.0095:

18 (1) on the motion of the attorney representing the  
19 state, the court shall dismiss the charge; or

20 (2) on the motion of the attorney representing the  
21 defendant and notice to the attorney representing the state, the  
22 court:

23 (A) shall set the matter to be heard not later  
24 than the 10th day after the date of filing of the motion; and

25 (B) may dismiss the charge on a finding that the  
26 defendant was not tried before the expiration of the maximum period  
27 of restoration.

1 SECTION 8. Article 46B.026, Code of Criminal Procedure, is  
2 amended by adding Subsection (d) to read as follows:

3 (d) The court shall submit to the Office of Court  
4 Administration of the Texas Judicial System on a monthly basis the  
5 number of reports provided to the court under this article.

6 SECTION 9. Article 46B.071(a), Code of Criminal Procedure,  
7 is amended to read as follows:

8 (a) Except as provided by Subsection (b), on a determination  
9 that a defendant is incompetent to stand trial and is subject to an  
10 initial restoration period, the court shall:

11 (1) if the defendant is charged with an offense  
12 punishable as a Class B misdemeanor:

13 (A) commit the defendant to a program [~~facility~~]  
14 under Article 46B.073; or

15 (B) [~~(2)~~] release the defendant on bail under  
16 Article 46B.0711; or

17 (2) if the defendant is charged with an offense  
18 punishable as a Class A misdemeanor or any higher category of  
19 offense:

20 (A) commit the defendant to a facility or program  
21 under Article 46B.073; or

22 (B) release the defendant on bail under Article  
23 46B.072.

24 SECTION 10. Subchapter D, Chapter 46B, Code of Criminal  
25 Procedure, is amended by adding Article 46B.0711 to read as  
26 follows:

27 Art. 46B.0711. RELEASE ON BAIL FOR CLASS B MISDEMEANOR. (a)

1 Subject to conditions reasonably related to ensuring public safety  
2 and the effectiveness of the defendant's treatment, if the court  
3 determines that a defendant charged with an offense punishable as a  
4 Class B misdemeanor and found incompetent to stand trial is not a  
5 danger to others and may be safely treated on an outpatient basis  
6 with the specific objective of attaining competency to stand trial,  
7 the court shall:

8 (1) release the defendant on bail or continue the  
9 defendant's release on bail; and

10 (2) order the defendant to participate in an  
11 outpatient treatment program for a period not to exceed 90 days.

12 (b) If the defendant successfully completes the outpatient  
13 treatment program described by Subsection (a), the court shall:

14 (1) on the motion of the attorney representing the  
15 state, dismiss the charge; or

16 (2) proceed as otherwise required by this subchapter.

17 (c) If the defendant does not successfully complete the  
18 outpatient treatment program described by Subsection (a), the court  
19 may:

20 (1) for the remainder of the 90-day period described  
21 by Subsection (a)(2), commit the defendant to a jail-based  
22 restoration of competency program under Article 46B.073 if the  
23 maximum period of restoration described by Article 46B.0095 has not  
24 expired; or

25 (2) on the motion of the attorney representing the  
26 state, dismiss the charge.

27 SECTION 11. The heading to Article 46B.072, Code of

1 Criminal Procedure, is amended to read as follows:

2 Art. 46B.072. RELEASE ON BAIL FOR CLASS A MISDEMEANOR OR  
3 FELONY.

4 SECTION 12. Article 46B.072, Code of Criminal Procedure, is  
5 amended by amending Subsection (a-1) and adding Subsections (e) and  
6 (f) to read as follows:

7 (a-1) Subject to conditions reasonably related to ensuring  
8 ~~[assuring]~~ public safety and the effectiveness of the defendant's  
9 treatment, if the court determines that a defendant found  
10 incompetent to stand trial is not a danger to others and may be  
11 safely treated on an outpatient basis with the specific objective  
12 of attaining competency to stand trial and if an appropriate  
13 outpatient treatment program is available for the defendant, the  
14 court:

15 (1) may release on bail a defendant found incompetent  
16 to stand trial with respect to an offense punishable as a felony or  
17 may continue the defendant's release on bail; and

18 (2) shall release on bail a defendant found  
19 incompetent to stand trial with respect to an offense punishable as  
20 a Class A [a] misdemeanor or shall continue the defendant's release  
21 on bail.

22 (e) If the defendant successfully completes the outpatient  
23 treatment program described by Subsection (a-1), the court shall:

24 (1) on the motion of the attorney representing the  
25 state, dismiss the charge; or

26 (2) proceed as otherwise required by this subchapter.

27 (f) If the defendant does not successfully complete the

1 outpatient treatment program described by Subsection (a-1), the  
2 court may:

3 (1) for the remainder of the 120-day period described  
4 by Subsection (b), commit the defendant to a facility or to a  
5 jail-based restoration of competency program under Article 46B.073  
6 if the maximum period of restoration described by Article 46B.0095  
7 has not expired; or

8 (2) on the motion of the attorney representing the  
9 state, dismiss the charge.

10 SECTION 13. Article 46B.073, Code of Criminal Procedure, is  
11 amended to read as follows:

12 Art. 46B.073. COMMITMENT FOR RESTORATION TO COMPETENCY. (a)  
13 This article applies only to a defendant [~~not released on bail~~] who  
14 is subject to an initial restoration period based on Article  
15 46B.071 and who:

16 (1) was not released on bail; or

17 (2) if released on bail, is made subject to this  
18 article by action of the court under Article 46B.0711(c) or  
19 46B.072(f).

20 (b) For further examination, psychiatric stabilization, and  
21 treatment toward the specific objective of the defendant attaining  
22 competency to stand trial, the court shall commit a defendant  
23 described by Subsection (a) to a mental health facility, ~~[or]~~  
24 residential care facility, or jail-based restoration of competency  
25 program for the applicable period as follows:

26 (1) a period of not more than 60 days, if the defendant  
27 is described by Subsection (a)(1) and charged with an offense

1 punishable as a misdemeanor; [~~or~~]

2 (2) a period of not more than 120 days, if the  
3 defendant is described by Subsection (a)(1) and charged with an  
4 offense punishable as a felony; or

5 (3) the remainder of the restoration period specified  
6 by the court under Article 46B.0711 or 46B.072, as applicable.

7 (b-1) A defendant charged with an offense punishable as a  
8 Class B misdemeanor may be committed under this subchapter only to a  
9 jail-based restoration of competency program.

10 (c) If the defendant is charged with an offense listed in  
11 Article 17.032(a), other than an offense listed in Article  
12 17.032(a)(6), or the indictment alleges an affirmative finding  
13 under Article 42A.054(c) or (d), the court shall enter an order  
14 committing the defendant for psychiatric stabilization to the  
15 maximum security unit of any facility designated by the Department  
16 of State Health Services, to an agency of the United States  
17 operating a mental hospital, [~~or~~] to a Department of Veterans  
18 Affairs hospital, or to a jail-based restoration of competency  
19 program.

20 (d) If the defendant is not charged with an offense  
21 described by Subsection (c) and the indictment does not allege an  
22 affirmative finding under Article 42A.054(c) or (d), the court  
23 shall enter an order committing the defendant for psychiatric  
24 stabilization to a jail-based restoration of competency program or  
25 to a mental health facility or residential care facility determined  
26 to be appropriate by the local mental health authority or local  
27 intellectual and developmental disability authority.

1           (e) On notification from the head of a facility or a program  
2 provider under Article 46B.079(b)(1), the court shall order the  
3 defendant to receive competency restoration education services in a  
4 jail-based restoration of competency program or in an outpatient  
5 competency restoration education program, as appropriate.

6           (f) If a defendant for whom an order is entered under  
7 Subsection (e) was committed for psychiatric stabilization to a  
8 facility other than a jail-based restoration of competency program,  
9 the court shall send a copy of that order to:

10                 (1) the sheriff of the county in which the court is  
11 located; and

12                 (2) the head of the facility to which the defendant was  
13 committed for psychiatric stabilization [~~Notwithstanding~~  
14 ~~Subsections (b), (c), and (d) and notwithstanding the contents of~~  
15 ~~the applicable order of commitment, in a county in which the~~  
16 ~~Department of State Health Services operates a jail-based~~  
17 ~~restoration of competency pilot program under Article 46B.090, a~~  
18 ~~defendant for whom an order is issued under this article committing~~  
19 ~~the defendant to a mental health facility or residential care~~  
20 ~~facility shall be provided competency restoration services at the~~  
21 ~~jail under the pilot program if the service provider at the jail~~  
22 ~~determines the defendant will immediately begin to receive~~  
23 ~~services. If the service provider at the jail determines the~~  
24 ~~defendant will not immediately begin to receive competency~~  
25 ~~restoration services, the defendant shall be transferred to the~~  
26 ~~appropriate mental health facility or residential care facility as~~  
27 ~~provided by the court order. This subsection expires September 1,~~

1 2019].

2 SECTION 14. Article 46B.074(a), Code of Criminal Procedure,  
3 is amended to read as follows:

4 (a) A defendant may be committed to a jail-based restoration  
5 of competency program, mental health facility, or residential care  
6 facility under this subchapter only on competent medical or  
7 psychiatric testimony provided by an expert qualified under Article  
8 46B.022.

9 SECTION 15. Article 46B.075, Code of Criminal Procedure, is  
10 amended to read as follows:

11 Art. 46B.075. TRANSFER OF DEFENDANT TO FACILITY OR  
12 [~~OUTPATIENT TREATMENT~~] PROGRAM. An order issued under Article  
13 46B.0711, 46B.072, or 46B.073 must place the defendant in the  
14 custody of the sheriff for transportation to the facility or  
15 [~~outpatient treatment~~] program, as applicable, in which the  
16 defendant is to receive treatment for purposes of competency  
17 restoration.

18 SECTION 16. Articles 46B.0755(a), (b), and (d), Code of  
19 Criminal Procedure, are amended to read as follows:

20 (a) Notwithstanding any other provision of this subchapter,  
21 if the court receives credible evidence indicating that the  
22 defendant has been restored to competency at any time after the  
23 defendant's incompetency trial under Subchapter C but before the  
24 defendant is transported under Article 46B.075 to the [~~a mental~~  
25 ~~health facility, residential care~~] facility[7] or [~~outpatient~~  
26 ~~treatment~~] program, as applicable, the court may appoint  
27 disinterested experts to reexamine the defendant in accordance with

1 Subchapter B. The court is not required to appoint the same expert  
2 or experts who performed the initial examination of the defendant  
3 under that subchapter.

4 (b) If after a reexamination of the defendant the applicable  
5 expert's report states an opinion that the defendant remains  
6 incompetent, the court's order under Article 46B.0711, 46B.072, or  
7 46B.073 remains in effect, and the defendant shall be transported  
8 to the facility or [~~outpatient treatment~~] program as required by  
9 Article 46B.075. If after a reexamination of the defendant the  
10 applicable expert's report states an opinion that the defendant has  
11 been restored to competency, the court shall withdraw its order  
12 under Article 46B.0711, 46B.072, or 46B.073 and proceed under  
13 Subsection (c) or (d).

14 (d) The court shall hold a hearing to determine whether the  
15 defendant has been restored to competency if any party fails to  
16 agree or if the court fails to concur that the defendant is  
17 competent to stand trial. If a court holds a hearing under this  
18 subsection, on the request of the counsel for either party or the  
19 motion of the court, a jury shall make the competency  
20 determination. For purposes of the hearing, incompetency is  
21 presumed, and the defendant's competency must be proved by a  
22 preponderance of the evidence. If after the hearing the defendant  
23 is again found to be incompetent to stand trial, the court shall  
24 issue a new order under Article 46B.0711, 46B.072, or 46B.073, as  
25 appropriate based on the defendant's current condition.

26 SECTION 17. Article 46B.076, Code of Criminal Procedure, is  
27 amended to read as follows:

1           Art. 46B.076. COURT'S ORDER. (a) If the defendant is found  
2 incompetent to stand trial, not later than the date of the order of  
3 commitment or of release on bail, as applicable, the court shall  
4 send a copy of the order to the applicable facility [~~to which the~~  
5 ~~defendant is committed~~] or [~~the outpatient treatment~~] program [~~to~~  
6 ~~which the defendant is released~~]. The court shall also provide to  
7 the facility or [~~outpatient treatment~~] program copies of the  
8 following made available to the court during the incompetency  
9 trial:

- 10           (1) reports of each expert;
- 11           (2) psychiatric, psychological, or social work  
12 reports that relate to the mental condition of the defendant;
- 13           (3) documents provided by the attorney representing  
14 the state or the attorney representing the defendant that relate to  
15 the defendant's current or past mental condition;
- 16           (4) copies of the indictment or information and any  
17 supporting documents used to establish probable cause in the case;
- 18           (5) the defendant's criminal history record; and
- 19           (6) the addresses of the attorney representing the  
20 state and the attorney representing the defendant.

21           (b) The court shall order that the transcript of all medical  
22 testimony received by the jury or court be promptly prepared by the  
23 court reporter and forwarded to the applicable [~~proper~~] facility or  
24 [~~outpatient treatment~~] program.

25           SECTION 18. Article 46B.077, Code of Criminal Procedure, is  
26 amended to read as follows:

27           Art. 46B.077. INDIVIDUAL TREATMENT PROGRAM. (a) The

1 facility or jail-based program to which the defendant is committed  
2 or the outpatient treatment program to which the defendant is  
3 released on bail shall:

- 4 (1) develop an individual program of treatment;
- 5 (2) assess and evaluate whether the defendant is  
6 likely to be restored to competency in the foreseeable future; and
- 7 (3) report to the court and to the local mental health  
8 authority or to the local intellectual and developmental disability  
9 authority on the defendant's progress toward achieving competency.

10 (b) If the defendant is committed to an inpatient mental  
11 health facility, ~~[or to a]~~ residential care facility, or jail-based  
12 restoration of competency program, the facility or program shall  
13 report to the court at least once during the commitment period. If  
14 the defendant is released to a treatment program not provided by an  
15 inpatient mental health facility, ~~[or a]~~ residential care facility,  
16 or jail-based restoration of competency program, the treatment  
17 program shall report to the court:

- 18 (1) not later than the 14th day after the date on which  
19 the defendant's treatment begins; and
- 20 (2) until the defendant is no longer released to the  
21 treatment program, at least once during each 30-day period  
22 following the date of the report required by Subdivision (1).

23 SECTION 19. Article 46B.078, Code of Criminal Procedure, is  
24 amended to read as follows:

25 Art. 46B.078. CHARGES SUBSEQUENTLY DISMISSED. If the  
26 charges pending against a defendant are dismissed, the court that  
27 issued the order under Article 46B.0711, 46B.072, or 46B.073 shall

1 send a copy of the order of dismissal to the sheriff of the county in  
2 which the court is located and to the head of the facility, the  
3 provider of the jail-based restoration of competency program, or  
4 the provider of the outpatient [~~treatment~~] program, as appropriate.  
5 On receipt of the copy of the order, the facility or [~~outpatient~~  
6 ~~treatment~~] program shall discharge the defendant into the care of  
7 the sheriff for transportation in the manner described by Article  
8 [46B.082](#).

9 SECTION 20. Article [46B.079](#), Code of Criminal Procedure, is  
10 amended to read as follows:

11 Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of  
12 the facility, the provider of the jail-based restoration of  
13 competency program, or the provider of the outpatient [~~treatment~~]  
14 program, as appropriate, not later than the 15th day before the date  
15 on which the initial restoration period is to expire according to  
16 the terms of the order or under Article [46B.0095](#) or other applicable  
17 provisions of this chapter, shall notify the applicable court that  
18 the period is about to expire.

19 (b) The head of the facility, jail-based restoration of  
20 competency program provider, or outpatient [~~treatment~~] program  
21 provider shall promptly notify the court when the head of the  
22 facility or [~~outpatient treatment~~] program provider believes that:

23 (1) the defendant has attained psychiatric  
24 stabilization but has not attained competency to stand trial;

25 (2) the defendant has attained competency to stand  
26 trial; or

27 (3) [~~(2)~~] the defendant is not likely to attain

1 competency in the foreseeable future.

2 (c) When the head of the facility or [~~outpatient treatment~~]  
3 program provider gives notice to the court under Subsection (a),  
4 (b)(2), or (b)(3) [~~(b)~~], the head of the facility or [~~outpatient~~  
5 ~~treatment~~] program provider also shall file a final report with the  
6 court stating the reason for the proposed discharge under this  
7 chapter and including a list of the types and dosages of medications  
8 prescribed for the defendant while the defendant was in the  
9 facility or participating in the [~~outpatient treatment~~] program.  
10 To enable any objection to the findings of the report to be made in a  
11 timely manner under Article [46B.084\(a-1\)](#), the court shall provide  
12 copies of the report to the attorney representing the defendant and  
13 the attorney representing the state.

14 (d) If the head of the facility or [~~outpatient treatment~~]  
15 program provider notifies the court that the initial restoration  
16 period is about to expire, the notice may contain a request for an  
17 extension of the period for an additional period of 60 days and an  
18 explanation for the basis of the request. An explanation provided  
19 under this subsection must include a description of any evidence  
20 indicating a reduction in the severity of the defendant's symptoms  
21 or impairment.

22 SECTION 21. Article [46B.080\(a\)](#), Code of Criminal Procedure,  
23 is amended to read as follows:

24 (a) On a request of the head of a facility or a [~~treatment~~]  
25 program provider that is made under Article [46B.079\(d\)](#) and  
26 notwithstanding any other provision of this subchapter, the court  
27 may enter an order extending the initial restoration period for an

1 additional period of 60 days.

2 SECTION 22. Article [46B.081](#), Code of Criminal Procedure, is  
3 amended to read as follows:

4 Art. 46B.081. RETURN TO COURT. Subject to Article  
5 [46B.082](#)(b), a defendant committed or released on bail under this  
6 subchapter shall be returned to the applicable court as soon as  
7 practicable after notice to the court is provided under Article  
8 [46B.079](#)(a), (b)(2), or (b)(3) [~~46B.079~~], but not later than the  
9 date of expiration of the period for restoration specified by the  
10 court under Article [46B.0711](#), [46B.072](#), or [46B.073](#).

11 SECTION 23. The heading to Article [46B.082](#), Code of  
12 Criminal Procedure, is amended to read as follows:

13 Art. 46B.082. TRANSPORTATION OF DEFENDANT TO COURT.

14 SECTION 24. Article [46B.082](#)(b), Code of Criminal Procedure,  
15 is amended to read as follows:

16 (b) If before the 15th day after the date on which the court  
17 received notification under Article [46B.079](#)(a), (b)(2), or (b)(3),  
18 [~~46B.079~~] a defendant committed to a facility or jail-based program  
19 or ordered to participate in an outpatient [~~treatment~~] program has  
20 not been transported to the court that issued the order under  
21 Article [46B.0711](#), [46B.072](#), or [46B.073](#), as applicable, the head of  
22 the facility or provider of the jail-based program to which the  
23 defendant is committed or the provider of the outpatient  
24 [~~treatment~~] program in which the defendant is participating shall  
25 cause the defendant to be promptly transported to the court and  
26 placed in the custody of the sheriff of the county in which the  
27 court is located. The county in which the court is located shall

1 reimburse the Department of State Health Services or the Health and  
2 Human [~~Department of Aging and Disability~~] Services Commission, as  
3 appropriate, for the mileage and per diem expenses of the personnel  
4 required to transport the defendant, calculated in accordance with  
5 rates provided in the General Appropriations Act for state  
6 employees.

7 SECTION 25. Subchapter D, Chapter 46B, Code of Criminal  
8 Procedure, is amended by adding Articles 46B.0825 and 46B.0826 to  
9 read as follows:

10 Art. 46B.0825. DISCHARGE AND TRANSPORTATION OF DEFENDANT  
11 AFTER PSYCHIATRIC STABILIZATION. (a) As soon as practicable after  
12 receiving a copy of an order under Article 46B.073(f)(2), the  
13 applicable facility shall discharge the defendant into the care of  
14 the sheriff of the county in which the court is located, and the  
15 sheriff or the sheriff's designee shall transport the defendant to  
16 the jail-based restoration of competency program or outpatient  
17 competency restoration education program, as appropriate.

18 (b) A jail-based restoration of competency program or  
19 outpatient competency restoration education program that receives  
20 a defendant under this article shall give to the court:

21 (1) notice regarding the defendant's entry into the  
22 program for purposes of receiving competency restoration education  
23 services; and

24 (2) subsequent notice as otherwise required under  
25 Article 46B.079.

26 Art. 46B.0826. ADMINISTRATION OF MEDICATION WHILE IN  
27 CUSTODY OF SHERIFF. A sheriff or other person having custody of a

1 defendant for transportation as required by Article 46B.075,  
2 46B.082, or 46B.0825 shall, according to information available at  
3 the time and unless directed otherwise by a physician treating the  
4 defendant, ensure that the defendant is provided with the types and  
5 dosages of medication prescribed for the defendant.

6 SECTION 26. Article 46B.083, Code of Criminal Procedure, is  
7 amended to read as follows:

8 Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED  
9 BY FACILITY [~~HEAD~~] OR [~~OUTPATIENT TREATMENT~~] PROGRAM [~~PROVIDER~~].

10 (a) If the head of the facility, the jail-based restoration of  
11 competency program provider, or the outpatient [~~treatment~~] program  
12 provider believes that the defendant is a person with mental  
13 illness and meets the criteria for court-ordered mental health  
14 services under Subtitle C, Title 7, Health and Safety Code, the head  
15 of the facility or the [~~outpatient treatment~~] program provider  
16 shall have submitted to the court a certificate of medical  
17 examination for mental illness.

18 (b) If the head of the facility, the jail-based restoration  
19 of competency program provider, or the outpatient [~~treatment~~]  
20 program provider believes that the defendant is a person with an  
21 intellectual disability, the head of the facility or the  
22 [~~outpatient treatment~~] program provider shall have submitted to the  
23 court an affidavit stating the conclusions reached as a result of  
24 the examination.

25 SECTION 27. Articles 46B.086(a), (b), (c), and (d), Code of  
26 Criminal Procedure, are amended to read as follows:

27 (a) This article applies only to a defendant:

1 (1) who is determined under this chapter to be  
2 incompetent to stand trial;

3 (2) who either:

4 (A) remains confined in a correctional facility,  
5 as defined by Section 1.07, Penal Code, for a period exceeding 72  
6 hours while awaiting transfer to an inpatient mental health  
7 facility, a residential care facility, a jail-based restoration of  
8 competency program, or an outpatient [~~treatment~~] program;

9 (B) is committed to an inpatient mental health  
10 facility, ~~or~~ a residential care facility, or a jail-based  
11 restoration of competency program for the purpose of competency  
12 restoration;

13 (C) is confined in a correctional facility while  
14 awaiting further criminal proceedings following competency  
15 restoration treatment;

16 (D) is subject to Article 46B.0711, if the court  
17 has made the determinations required by Subsection (a) of that  
18 article; or

19 (E) [~~(D)~~] is subject to Article 46B.072, if the  
20 court has made the determinations required by Subsection (a-1) of  
21 that article;

22 (3) for whom a correctional facility that employs or  
23 contracts with a licensed psychiatrist, an inpatient mental health  
24 facility, a residential care facility, a jail-based restoration of  
25 competency program, or an outpatient [~~treatment~~] program provider  
26 has prepared a continuity of care plan that requires the defendant  
27 to take psychoactive medications; and

1           (4) who, after a hearing held under Section 574.106 or  
2 592.156, Health and Safety Code, if applicable, has been found to  
3 not meet the criteria prescribed by Sections 574.106(a) and (a-1)  
4 or 592.156(a) and (b), Health and Safety Code, for court-ordered  
5 administration of psychoactive medications.

6           (b) If a defendant described by Subsection (a) refuses to  
7 take psychoactive medications as required by the defendant's  
8 continuity of care plan, the director of the [~~correctional~~]  
9 facility or [~~outpatient—treatment~~] program provider, as  
10 applicable, shall notify the court in which the criminal  
11 proceedings are pending of that fact not later than the end of the  
12 next business day following the refusal. The court shall promptly  
13 notify the attorney representing the state and the attorney  
14 representing the defendant of the defendant's refusal. The  
15 attorney representing the state may file a written motion to compel  
16 medication. The motion to compel medication must be filed not later  
17 than the 15th day after the date a judge issues an order stating  
18 that the defendant does not meet the criteria for court-ordered  
19 administration of psychoactive medications under Section 574.106  
20 or 592.156, Health and Safety Code, except that, for a defendant in  
21 an outpatient [~~treatment~~] program, the motion may be filed at any  
22 time.

23           (c) The court, after notice and after a hearing held not  
24 later than the 10th day after the motion to compel medication is  
25 filed, may authorize the director of the [~~correctional~~] facility or  
26 the program provider, as applicable, to have the medication  
27 administered to the defendant, by reasonable force if necessary. A

1 hearing under this subsection may be conducted using an electronic  
2 broadcast system as provided by Article 46B.013.

3 (d) The court may issue an order under this article only if  
4 the order is supported by the testimony of two physicians, one of  
5 whom is the physician at or with the applicable [~~correctional~~]  
6 facility or [~~outpatient treatment~~] program who is prescribing the  
7 medication as a component of the defendant's continuity of care  
8 plan and another who is not otherwise involved in proceedings  
9 against the defendant. The court may require either or both  
10 physicians to examine the defendant and report on the examination  
11 to the court.

12 SECTION 28. The heading to Article 46B.090, Code of  
13 Criminal Procedure, is amended to read as follows:

14 Art. 46B.090. JAIL-BASED RESTORATION OF COMPETENCY [~~PILOT~~]  
15 PROGRAM IMPLEMENTED BY COMMISSION.

16 SECTION 29. Articles 46B.090(a), (a-1), (b), (c), (f), (g),  
17 (i), (j), (k), (l), and (m), Code of Criminal Procedure, are amended  
18 to read as follows:

19 (a) In this article:

20 (1) "Commission" [~~,"department"~~] means the Health and  
21 Human Services Commission [~~Department of State Health Services~~].

22 (2) "Executive commissioner" means the executive  
23 commissioner of the Health and Human Services Commission.

24 (a-1) The commission may [~~If the legislature appropriates~~  
25 ~~to the department the funding necessary for the department to~~  
26 ~~operate a jail-based restoration of competency pilot program as~~  
27 ~~described by this article, the department shall~~] develop and

1 implement a jail-based restoration of competency ~~[the pilot]~~  
2 program in any county ~~[one or two counties]~~ in this state that  
3 chooses ~~[choose]~~ to participate in the ~~[pilot]~~ program. In  
4 developing the ~~[pilot]~~ program, the commission ~~[department]~~ shall  
5 coordinate and allow for input from a [each] participating county.

6 (b) The commission ~~[department]~~ shall contract with a  
7 provider of jail-based competency restoration services to provide  
8 services under a ~~[the pilot]~~ program implemented ~~[if the department~~  
9 ~~develops a pilot program]~~ under this article. The commission may  
10 contract with a different provider for each program.

11 (c) The executive ~~[Not later than November 1, 2013, the]~~  
12 commissioner ~~[of the department]~~ shall adopt rules as necessary to  
13 implement a ~~[the pilot]~~ program~~[- In adopting rules]~~ under this  
14 article, including rules that ~~[the commissioner shall]~~ specify the  
15 types of information the commission ~~[department]~~ must collect  
16 ~~[during the operation of the pilot program]~~ for use in evaluating a  
17 ~~[the outcome of the pilot]~~ program.

18 (f) To contract with the commission ~~[department]~~ under  
19 Subsection (b), a provider of jail-based competency restoration  
20 services must demonstrate to the commission ~~[department]~~ that:

21 (1) the provider:

22 (A) has previously provided jail-based  
23 competency restoration services for one or more years and is  
24 certified by a nationwide nonprofit organization that accredits  
25 behavioral health care organizations and programs; ~~[or]~~

26 (B) is a local mental health authority in good  
27 standing with the commission ~~[that has previously provided~~

1 ~~competency restoration services]; or~~

2 (C) operates under a contract with a local mental  
3 health authority in good standing with the commission; and

4 (2) the provider's jail-based restoration of  
5 competency ~~[restoration]~~ program:

6 (A) provides clinical treatment and competency  
7 restoration through the use of ~~[uses]~~ a multidisciplinary treatment  
8 team ~~[to provide clinical treatment that is:~~

9 ~~[(i) directed toward the specific objective~~  
10 ~~of restoring the defendant's competency to stand trial; and~~

11 ~~[(ii) similar to the clinical treatment~~  
12 ~~provided as part of a competency restoration program at an~~  
13 ~~inpatient mental health facility];~~

14 (B) employs or contracts for the services of at  
15 least one psychiatrist or psychologist;

16 (C) provides jail-based competency restoration  
17 services through trained and experienced staff ~~[assigns staff~~  
18 ~~members to defendants participating in the program at an average~~  
19 ~~ratio not lower than 3.7 to 1]; ~~[and]~~~~

20 (D) ensures the safety of participants ~~[provides~~  
21 ~~weekly treatment hours commensurate to the treatment hours provided~~  
22 ~~as part of a competency restoration program at an inpatient mental~~  
23 ~~health facility];~~

24 (E) operates in the jail in a designated space  
25 that is separate from the space used for the general population of  
26 the jail;

27 (F) provides general health care, mental health

1 treatment, and substance use disorder treatment to participants, as  
2 necessary, for restoration of competency; and

3 (G) supplies clinically appropriate psychoactive  
4 medications for purposes of administering court-ordered medication  
5 to participants as applicable and in accordance with Article  
6 46B.086 of this code and Section 574.106, Health and Safety Code

7 ~~[(3) the provider is certified by a nationwide~~  
8 ~~nonprofit organization that accredits health care organizations~~  
9 ~~and programs, such as the Joint Commission on Health Care Staffing~~  
10 ~~Services, or the provider is a local mental health authority in good~~  
11 ~~standing with the department; and~~

12 ~~[(4) the provider has a demonstrated history of~~  
13 ~~successful jail-based competency restoration outcomes or, if the~~  
14 ~~provider is a local mental health authority, a demonstrated history~~  
15 ~~of successful competency restoration outcomes].~~

16 (g) A contract under Subsection (b) must require a [the]  
17 designated provider to collect and submit to the commission  
18 ~~[department]~~ the information specified by rules adopted under  
19 Subsection (c).

20 (i) The psychiatrist or psychologist for the provider shall  
21 conduct at least two full psychiatric or psychological evaluations  
22 of the defendant during the period the defendant receives  
23 competency restoration services in the jail. The psychiatrist or  
24 psychologist must conduct one evaluation not later than the 21st  
25 day and one evaluation not later than the 55th day after the date  
26 the defendant begins to participate in the ~~[pilot]~~ program. The  
27 psychiatrist or psychologist shall submit to the court a report

1 concerning each evaluation required under this subsection.

2 (j) If at any time during a defendant's participation in a  
3 ~~[the jail-based restoration of competency pilot]~~ program  
4 implemented under this article the psychiatrist or psychologist for  
5 the provider determines that the defendant has attained competency  
6 to stand trial:

7 (1) the psychiatrist or psychologist for the provider  
8 shall promptly issue and send to the court a report demonstrating  
9 that fact; and

10 (2) the court shall consider that report as the report  
11 of an expert stating an opinion that the defendant has been restored  
12 to competency for purposes of Article [46B.0755](#)(a) or (b).

13 (k) If at any time during a defendant's participation in a  
14 ~~[the jail-based restoration of competency pilot]~~ program  
15 implemented under this article the psychiatrist or psychologist for  
16 the provider determines that the defendant's competency to stand  
17 trial is unlikely to be restored in the foreseeable future:

18 (1) the psychiatrist or psychologist for the provider  
19 shall promptly issue and send to the court a report demonstrating  
20 that fact; and

21 (2) the court shall:

22 (A) proceed under Subchapter E or F and order the  
23 transfer of the defendant, without unnecessary delay, to the first  
24 available facility that is appropriate for that defendant, as  
25 provided under Subchapter E or F, as applicable; or

26 (B) release the defendant on bail as permitted  
27 under Chapter [17](#).

1 (1) If the psychiatrist or psychologist for the provider  
2 determines that a defendant ordered to participate in a [~~the pilot~~]  
3 program implemented under this article has not been restored to  
4 competency by the end of the 60th day after the date the defendant  
5 began to participate in the [~~pilot~~] program:

6 (1) for a defendant charged with a felony, the  
7 defendant shall be transferred, without unnecessary delay and for  
8 the remainder of the period prescribed by Article 46B.073(b), to  
9 the first available facility that is appropriate for that defendant  
10 as provided by Article 46B.073(c) or (d); and

11 (2) for a defendant charged with a misdemeanor, the  
12 court may:

13 (A) order a single extension under Article  
14 46B.080 and, notwithstanding Article 46B.073(b-1), the transfer of  
15 the defendant without unnecessary delay to the appropriate mental  
16 health facility or residential care facility as provided by Article  
17 46B.073(d) for the remainder of the period under the extension;

18 (B) proceed under Subchapter E or F;

19 (C) release the defendant on bail as permitted  
20 under Chapter 17; or

21 (D) dismiss the charges in accordance with  
22 Article 46B.010.

23 (m) Unless otherwise provided by this article, the  
24 provisions of this chapter, including the maximum periods  
25 prescribed by Article 46B.0095, apply to a defendant receiving  
26 competency restoration services, including competency restoration  
27 education services, under a [~~the pilot~~] program implemented under

1 this article in the same manner as those provisions apply to any  
2 other defendant who is subject to proceedings under this chapter.

3 SECTION 30. Subchapter C, Chapter 72, Government Code, is  
4 amended by adding Section 72.032 to read as follows:

5 Sec. 72.032. BEST PRACTICES EDUCATION. The director shall  
6 make available to courts information concerning best practices for  
7 addressing the needs of persons with mental illness in the court  
8 system, including the use of the preferred terms and phrases  
9 provided by Section 392.002.

10 SECTION 31. Chapter 121, Government Code, is amended by  
11 adding Section 121.003 to read as follows:

12 Sec. 121.003. SPECIALTY COURTS REPORT. (a) In this  
13 section, "office" means the Office of Court Administration of the  
14 Texas Judicial System.

15 (b) For the period beginning September 1, 2017, and ending  
16 September 1, 2018, the office shall collect information from  
17 specialty courts in this state regarding outcomes of participants  
18 in those specialty courts who are persons with mental illness,  
19 including recidivism rates of those participants, and other  
20 relevant information as determined by the office.

21 (c) Not later than December 1, 2018, the office shall submit  
22 to the legislature a report containing and evaluating the  
23 information collected under Subsection (b).

24 (d) This section expires September 1, 2019.

25 SECTION 32. Subchapter B, Chapter 531, Government Code, is  
26 amended by adding Section 531.0993 to read as follows:

27 Sec. 531.0993. GRANT PROGRAM TO REDUCE RECIDIVISM, ARREST,

1 AND INCARCERATION AMONG INDIVIDUALS WITH MENTAL ILLNESS AND TO  
2 REDUCE WAIT TIME FOR FORENSIC COMMITMENT. (a) For purposes of this  
3 section, "low-income household" means a household with a total  
4 income at or below 200 percent of the federal poverty guideline.

5 (b) The commission shall establish a program to award grants  
6 to county-based community collaboratives for the purposes of  
7 reducing:

8 (1) recidivism by, the frequency of arrests of, and  
9 incarceration of persons with mental illness; and

10 (2) the total waiting time for forensic commitment of  
11 persons with mental illness to a state hospital.

12 (c) A community collaborative may petition the commission  
13 for a grant under the program only if the collaborative includes a  
14 county, a local mental health authority that operates in the  
15 county, and each hospital district, if any, located in the county.  
16 A community collaborative may include other local entities  
17 designated by the collaborative's members.

18 (d) The commission shall condition each grant awarded to a  
19 community collaborative under this section on the collaborative  
20 providing matching funds from non-state sources in a total amount  
21 at least equal to the awarded grant amount. To raise matching  
22 funds, a collaborative may seek and receive gifts, grants, or  
23 donations from any person.

24 (e) For each state fiscal year for which a community  
25 collaborative seeks a grant, the collaborative must submit a  
26 petition to the commission not later than the first day of that  
27 fiscal year. The community collaborative must include with a

1 petition:

2 (1) a statement indicating the amount of matching  
3 funds the collaborative is able to provide; and

4 (2) a plan that:

5 (A) is endorsed by each of the collaborative's  
6 member entities;

7 (B) identifies a target population;

8 (C) describes how the grant money and matching  
9 funds will be used;

10 (D) includes outcome measures to evaluate the  
11 success of the plan; and

12 (E) describes how the success of the plan in  
13 accordance with the outcome measures would further the state's  
14 interest in the grant program's purposes.

15 (f) The commission must review and approve plans submitted  
16 with a petition under Subsection (e) before the commission awards a  
17 grant under this section. If the commission determines that a plan  
18 includes insufficient outcome measures, the commission may make the  
19 necessary changes to the plan to establish appropriate outcome  
20 measures. The commission may not make other changes to a plan.

21 (g) For each petition timely submitted and containing the  
22 statement and plan required by Subsection (e), the commission shall  
23 estimate the number of cases of serious mental illness in  
24 low-income households located in the county included in the  
25 community collaborative that submitted the petition.

26 (h) For each state fiscal year, the commission shall  
27 determine an amount of grant money available for the program on a

1 per-case basis by dividing the total amount of money appropriated  
2 to the commission for the purpose of awarding grants under this  
3 section for that fiscal year by the total number of the cases  
4 estimated under Subsection (g) for all collaboratives to which the  
5 commission intends to award grants under this section.

6 (i) The commission shall make available to a community  
7 collaborative awarded a grant under this section a grant in an  
8 amount equal to the lesser of:

9 (1) the amount determined by multiplying the per-case  
10 amount determined under Subsection (h) by the number of cases of  
11 serious mental illness in low-income households estimated for that  
12 collaborative under Subsection (g); or

13 (2) the collaborative's available matching funds.

14 (j) Acceptable uses for the grant money and matching funds  
15 include:

16 (1) the continuation of a mental health jail diversion  
17 program;

18 (2) the establishment or expansion of a mental health  
19 jail diversion program;

20 (3) the establishment of alternatives to competency  
21 restoration in a state hospital, including outpatient competency  
22 restoration, inpatient competency restoration in a setting other  
23 than a state hospital, or jail-based competency restoration;

24 (4) the provision of assertive community treatment or  
25 forensic assertive community treatment with an outreach component;

26 (5) the provision of intensive mental health services  
27 and substance abuse treatment not readily available in the county;

1           (6) the provision of continuity of care services for  
2 an individual being released from a state hospital;

3           (7) the establishment of interdisciplinary rapid  
4 response teams to reduce law enforcement's involvement with mental  
5 health emergencies; and

6           (8) the provision of local community hospital, crisis,  
7 respite, or residential beds.

8           (k) Not later than the 90th day after the last day of the  
9 state fiscal year for which the commission distributes a grant  
10 under this section, each community collaborative that receives a  
11 grant shall prepare and submit a report describing the effect of the  
12 grant money and matching funds in achieving the standard defined by  
13 the outcome measures in the plan submitted under Subsection (e).

14           (l) The commission may make inspections of the operation and  
15 provision of mental health services provided by a community  
16 collaborative to ensure state money appropriated for the grant  
17 program is used effectively.

18           SECTION 33. Section 614.0032(b), Health and Safety Code, is  
19 amended to read as follows:

20           (b) The office shall:

21                   (1) with the special assistance of committee members  
22 appointed under Section 614.002(b)(1):

23                           (A) review examinations to determine the  
24 competency of defendants in criminal cases to stand trial and  
25 examinations to determine the fitness of children to proceed with  
26 respect to adjudications of delinquent conduct or conduct  
27 indicating a need for supervision; and

1 (B) periodically report to the legislature and  
2 the court of criminal appeals findings made as a result of the  
3 review described by Paragraph (A); ~~and~~

4 (2) approve and make generally available in electronic  
5 format a standard form for use by experts in reporting competency  
6 examination results under Chapter 46B, Code of Criminal Procedure;  
7 and

8 (3) approve and make generally available in electronic  
9 format a standard form for use by experts in reporting mental health  
10 assessment results under Article 16.22, Code of Criminal Procedure.

11 SECTION 34. Subchapter B, Chapter 32, Human Resources Code,  
12 is amended by adding Section 32.0266 to read as follows:

13 Sec. 32.0266. SUSPENSION AND AUTOMATIC REINSTATEMENT OF  
14 ELIGIBILITY FOR CERTAIN INMATES. (a) In this section, "department"  
15 means the Texas Department of Criminal Justice.

16 (b) The eligibility for medical assistance of an inmate in  
17 the custody of the department is suspended during the period of  
18 custody if the inmate is determined by a physician to be a person  
19 with mental illness.

20 (c) An inmate whose eligibility for medical assistance is  
21 suspended under this section is automatically reinstated on the  
22 date the individual is released from the custody of the department.  
23 Following the reinstatement, the individual whose eligibility was  
24 suspended while an inmate in the custody of the department remains  
25 eligible until the expiration of the period of months for which the  
26 individual was certified as eligible, excluding the period during  
27 which the individual's eligibility was suspended.

1        (d) The executive commissioner and the department by rule  
2 shall adopt a memorandum of understanding that establishes the  
3 respective responsibilities of the commission and the department to  
4 ensure the suspension and automatic reinstatement of the  
5 eligibility of an individual for medical assistance under this  
6 section. The memorandum of understanding must establish methods  
7 for:

8            (1) identifying inmates in the custody of the  
9 department who have mental illness and who are eligible for medical  
10 assistance; and

11            (2) coordinating the period of an inmate's  
12 incarceration with the period of the inmate's suspension of  
13 eligibility for medical assistance under this section to ensure  
14 suspension under this section begins on the date the department's  
15 custody of the individual begins, and reinstatement under this  
16 section occurs on the date the individual is released from the  
17 department's custody.

18        SECTION 35. Articles 46B.090(h), (n), and (o), Code of  
19 Criminal Procedure, are repealed.

20        SECTION 36. Except as otherwise provided by this Act, the  
21 changes in law made by this Act apply only to a defendant charged  
22 with an offense committed on or after the effective date of this  
23 Act. A defendant charged with an offense committed before the  
24 effective date of this Act is governed by the law in effect on the  
25 date the offense was committed, and the former law is continued in  
26 effect for that purpose. For purposes of this section, an offense  
27 was committed before the effective date of this Act if any element

1 of the offense occurred before that date.

2 SECTION 37. The change in law made by this Act in adding  
3 Section 32.0266, Human Resources Code, applies only to an  
4 individual who is released from a facility or other setting  
5 described by that section on or after the effective date of this  
6 Act, regardless of the date the individual was:

7 (1) confined in a facility or other setting described  
8 by Section 32.0266; or

9 (2) determined eligible for medical assistance under  
10 Chapter 32, Human Resources Code.

11 SECTION 38. If before implementing any provision of Section  
12 32.0266, Human Resources Code, as added by this Act, a state agency  
13 determines that a waiver or authorization from a federal agency is  
14 necessary for implementation of that provision, the agency affected  
15 by the provision shall request the waiver or authorization and may  
16 delay implementing that provision until the waiver or authorization  
17 is granted.

18 SECTION 39. This Act takes effect September 1, 2017.